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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,927	10/19/2000	David H. Walker	3939-4000	5664
27123	7590	03/15/2006		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	
DATE MAILED: 03/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/691,927	Applicant(s) WALKER, DAVID H.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-50 and 269-278 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-50 and 269-278 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant's arguments filed 1/25/2006 have been fully considered but they are not persuasive.
2. The 35 USC 101 rejection has been withdrawn in view of the applicant's arguments.
3. As per claims 1-50, Applicant's representative states that May is directed to a credit monitoring system in an electronic trading system that performs a credit check on two potential trading parties to determine if each party will accept each other's trade based upon their respective predefined credit preferences. Applicant's representative then argues that:

“the claims pending in the application require that one or multiple potential creditors bid to offer credit to a user or accesser”. Applicant's representative makes several references to the instant specification particularly at pages 81-86. Applicant further argues that May is not directed to an auction format as claimed wherein a creditor makes its bid to offer credit based on information provided by an accesser. Applicant's representative also argues that May fails to teach or suggest an auction format which allows potential creditors to bid to offer credit to an access based on an access's credit request and information and the accesser to obtain multiple bids to satisfy its credit request.

In response, it is noted that the claims as currently presented do not recite these limitations are argued. Applicant's arguments relate to what is disclosed in their specification but not toward what is being claimed. Although the claims are interpreted in light of the specification, limitations from the specification cannot not be read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims as currently presented are broad and do not positively recite an actual function being performed. The language of "affecting" does not hint that the step is actually performed but only an effect of that step is contemplated.

4. The prior 35 USC 102 rejection follows below based on the claims as amended.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-50 are rejected under 35 U.S.C. 102(e) as being anticipated by May (US Patent No. 6,317,727).

As per claims 1-50, May discloses a system and method for negotiating credit terms between buyer, sellers and/or third parties. The system and method involve

having steps, program codes and means for affecting provision of a credit request, affecting provision of accesser determined information, affecting provision of bids for accesser credit requests and affecting obtaining preferred credit offers. See column 24, line 45 to column 34, line 59. May discloses providing credit approval, credit issuance and, credit confirmation and a step of affecting provision of accesser determined information and accesser credit rating.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 269-278 are rejected under 35 U.S.C. 103(a) as being unpatentable over May (US Patent No. 6,317,727) as applied to claims 1, 5, 11, 15, 31, 35, 41 and 45 in view of Brown et al (US Patent No. 6,622,131).

As per claims 279, 271, 273, 275 and 277, the teachings of May are discussed above. May does not explicitly teach that the provision of credit issuance is obtained from more than one creditor.

Brown et al teach a method and system in which banks bids for the provision of loans to a customer. See the abstract, column 11, line 54-67 and column 13, line 38-49 of Brown et al. it would have been obvious to one of ordinary skill in the art at the time

the invention was made to incorporate the teachings of Brown et al into the system of May in order to allow a buyer to obtain a lowest possible rate for a loan when transacting business with a particular seller.

As per claims 270, 272, 274, 276 and 278, the teachings of May and Brown et al are discussed above. The combined teachings fail to explicitly state that the provision of credit issuance is stored on a chip based smartcard.

Storing credits or loans or funds on a chip based smartcard is old and well known in the art in order to prevent a user from carrying too much cash. It would have been obvious to one of ordinary skill in the art at the time the invention was made to ensure that the provision of credit issuance is stored in a chip based smartcard in the combination of May and Brown et al in order to provide a safer way of providing the loan amount to a customer or loan applicant especially when the requested loan amount is huge.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

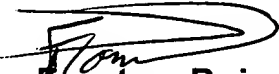
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 3628**